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Proposed Rule Language  
 [from December 7, 1999]

Amend § 1037.3 Agency and Public Review

Upon receipt of the filed plan in accordance with 14 ~~CAC~~ CCR 1037, the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the appropriate California ~~Regional~~ Water ~~Quality~~ Control ~~Board~~, the Division of Mines and Geology, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the ~~appropriate regional~~ California Coastal zone conservation Commission. The Director shall also transmit a copy of any specific plan to any person who has made a written request therefor. The Department shall bill such persons for the cost of providing such copies and such monies shall be paid to the Department.

The Director shall invite written comments, and will consider these comments. All comments regarding plans shall be in writing and shall be addressed to the Director at the regional office where the plan is filed. Comments from reviewing public agencies shall be considered based on the comments' substance, and specificity, and in relation to the commenting agencies' area(s) of expertise and statutory mandate, as well as the level of documentation, explanation or other support provided with the comments.

Note: Authority cited: Sections 4551 and 4552, Public Resources Code.

Reference: Sections 4582.6, 4582.7 and 4582.75, Public Resources Code.

### Amend § 1037.5 Review Teams to Be Established

Interdisciplinary review teams shall be established by the Director to review plans and assist the Director in the evaluation of proposed timber operations and their impacts on the environment.

1 (a) Review Team Composition. Each review team, when possible, shall  
2 consist of a representative from each of the following agencies: Regional  
3 Water Quality Control Board, Department of Fish and Game, Division of Mines  
4 and Geology, a representative of county government when the county government  
5 so requests, ~~Regional~~ California Coastal Commission (for plans in the coastal  
6 zone), California Tahoe Regional Planning Agency (for plans in the Tahoe  
7 Basin) and the Department of Forestry and Fire Protection. The ~~a~~Director  
8 shall request a representative from the Department of Parks and Recreation in  
9 the case of plans that ~~which~~ may affect values in publicly owned parks. The  
10 Director may request other federal, state or county agencies, or the Native  
11 American Heritage Commission (NAHC) or local tribal groups identified by the  
12 NAHC, when appropriate, to assist as advisors in the review process. The  
13 Department of Forestry and Fire Protection's representative shall be the  
14 review team chairperson and shall be a Registered Professional Forester.

16 (b) Review Team Function. The function of the review team shall be to  
17 assist the Director in determining if plans are in conformance with Board  
18 rules and to evaluate the potential environmental impacts of timber  
19 operations. Review criteria employed by a team shall be consistent with this  
20 function. The Board's regulations provide direction for those situations  
21 noted during the review which are not addressed by specific rules (See 14 CCR  
22 898.1(f), 901-903.2, 1655 & PRC 4555). In evaluating a plan, the review team  
23 shall review any discussion of feasible alternatives or additional mitigation  
24 to the proposed timber operation as prescribed in 14 CCR 898. Plan reviewers  
25 must consider the economic as well as the environmental benefits of feasible  
alternatives. The review team shall serve in an advisory capacity to the  
Director in making recommendations on plans.

In the event that any member of the review team concludes that the plan  
as filed would have a significant adverse effect on the environment, that  
member shall explain and justify this conclusion in writing as specifically  
as possible. The member shall provide in writing suggested site-specific  
mitigation measures, if any, that will substantially lessen the impacts.

(c) Chairperson Tasks. The Department is the lead agency in the review  
of plans. The review team chairperson shall direct the review team meetings,  
coordinate the interdisciplinary review of plans and develop recommendations  
on plans for the Director's consideration.

1 (d) Review Team Meetings. The Director or his designee is responsible  
2 for establishing and scheduling the meeting of a review team to perform the  
3 necessary review of plans for the Department.

4 Review team meetings shall be open to the RPF, supervised designee, the  
5 landowner, and the timber owner and, insofar as possible without disrupting  
6 the work of the team, to the public. The chairperson may impose limitations  
7 on the scope of any public participation at the meetings. All interested  
8 persons will normally be allowed to attend team meetings. On occasions when  
9 space or other considerations will require some limitation on attendance the  
10 review team chairperson shall endeavor to allow for attendance of at least  
11 one representative for each of the various agencies, organizations or special  
12 interest groups.

13 (e) Non-Concurrence. If a member of the review team does not concur  
14 with the chairperson's recommendation to the Director, the member shall  
15 submit in writing, within five days of the review team meeting and before the  
16 action required by 14 ~~CAC~~ CCR 1037.4, the specific reasons why the  
17 recommendation does not provide adequate protection of the resources for  
18 which his or her agency has responsibility. The submission to the Director  
19 shall also include recommendations on measures or actions the Director should  
20 take to address the asserted deficiency, as provided by the rules of the  
21 Board. A non-concurring member's comments shall be considered based on the  
22 comments' specificity and relation to the member agency's area(s) of  
23 expertise and statutory mandate, as well as the level of documentation,  
24 explanation or other support provided with the comments. If a non-  
25 concurrence is filed on a plan, the review team chairperson shall prepare a  
written report explaining how the concerns cited in the non-concurrence have  
been addressed in the plan and how the natural resources of concern will be  
protected during timber operations.

(f) Mitigation. During the review of a plan, including the pre-harvest  
inspection, members of the review team may recommend incorporation of  
mitigating measures into the plan which are consistent with the forest

1 practice rules and which would improve the plan or assist in significantly  
2 lessening adverse impacts of the operation on any timberland resources. The  
3 submitter may or may not agree with concerns expressed by the suggestions or  
4 may offer alternatives. If the submitter, after consultation with the RPF  
5 who prepared the plan, agrees with the suggested mitigation measures or  
6 changes, they are to be incorporated in the plan. The Director may only  
7 require incorporation into the plan of mitigation measures that are based on  
8 rules of the Board.

9 The team may suggest protective measures to the RPF for his  
10 incorporation into the plan when authority for such measures is not contained  
11 in the rules and regulations of the Board. If the RPF rejects incorporation  
12 of such measures into the plan, the Director shall determine if approval of  
13 the plan without the suggested measures could result in immediate  
14 significant, and long-term harm to the natural resources of the state. If  
15 the Director finds that the state's resources are so endangered, the  
16 provisions of PRC 4555 shall be followed.

17 (g) Review of Plans by Review Teams. Before the Director makes a  
18 determination on a plan, a review team shall review the plan. The review  
19 team shall do the following:

20 (1) Before the Director accepts a plan for filing or before the fifth  
21 working day after filing, a review team shall review the plan. The purpose of  
22 this review is to assist this Department in determining whether a preharvest  
23 inspection (initial inspection) is necessary and what areas of concern are to  
24 be examined during the inspection, if it is to be made. If a preharvest  
25 inspection is determined by the Department to be unnecessary, the review team  
shall make its recommendation to the Director no later than five working days  
after a plan is filed.

(2) After the preharvest inspection and before the Director's  
determination on a plan, the review team shall meet to review all the  
information on the plan and develop a recommendation for the Director.

(3) Requests, if any, for additional information, from the plan  
submitter during the review period shall be as prescribed by Section 1034 and  
other conditions in the rules. Such requests shall be supported by reasons  
for the request.

During the review period, the Director shall be responsible for  
determining whether requests for information not contained in the plan as  
filed or developed in preharvest inspection by review team members, reviewing  
agencies and members of the public, are consistent with the Forest Practice  
Rules, are reasonably necessary and should be requested from plan submitters.  
The Director's determination of additional information to be provided by plan  
submitters shall be guided by standards of practicality and reasonableness,  
recognizing the statutory review period of the FPA, the requirements of 14  
CCR 1034 and the availability of information from alternative sources.

(h) Review Team Recommendations. The review team chairperson shall  
develop on each plan reviewed, a recommendation for the Director's  
consideration. When developing recommendations the review team chairperson  
shall carefully consider all the information available and the views and  
opinions expressed by all team members. The advice of review team members  
shall be utilized in determining whether appropriate alternatives have been  
selected and included in a plan and if implementation of the plan would cause  
significant damage to natural resources. The Director shall evaluate the

review team recommendation in light of their specificity, as well as the level of documentation, explanation of other support provided with the recommendation and the agency's statutory mandates and areas of expertise.

(i) Communications with Plan Submitter. The plan submitter, and the registered professional forester who prepared the plan, and review team members, shall be provided by the Department with copies of preharvest inspection reports, nonconcurrences and review team recommendations so they are kept informed and are better able to respond promptly to the Department relative to changes that may be needed in a plan before it is acted upon by the Director.

Note: Authority cited: Sections 4551 and 21080.5, Public resources Code. Reference: Sections 4512, 4513, 4551.5, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; and *Natural Resources Defense Council, Inc. v. Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172.

#### **Amend § 1090.17 Agency and Public Review for the NTMP**

Upon receipt of the filed plan in accordance with 14 CCR 1090.16, the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the Division of Mines and Geology, and to the appropriate California Regional Water Quality Control Board, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the appropriate regional California ~~eCoastal zone conservation~~ eCommission and all other agencies having jurisdiction by law over natural resources affected by the plan. The Director shall also transmit a copy of any specific plan to any person who has made a written request therefore. The Department shall bill such persons for the cost of providing such copies and such monies shall be paid to the Department.

The Director shall invite written comments, and will consider these comments. All comments regarding plans shall be in writing and shall be addressed to the Director at the regional office where the plan is filed.

Note: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

**Amend § 1092.16 PTHP Review Inspection-Filing Return**

Within ten (10) days of the receipt of a PTHP, the Director shall determine if the PTHP is accurate, complete and in proper order, and if so, the PTHP shall be filed. During this same period, the Director shall determine if a preharvest inspection is necessary. If a preharvest inspection is needed, the ~~a~~Department will notify the submitter, the Department of Fish and Game, the Division of Mines and Geology, and the appropriate Regional Water Control Board to determine if they want to attend and schedule a mutually agreeable time and date of the inspection ~~consistent with PRC 4582.7~~. When the Director finds a PTHP inaccurate, incomplete, or otherwise not in proper order, the PTHP shall be returned to the submitter with written specifications of the deficiencies.

Note: Authority cited: Sections 4551, 4551.5, 4552, ~~4582.7~~ and 21080.5, Public Resources Code; and *NRDC v. Arcata National Corp.* (1976), 50 Cal. App. 3d. 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and 21092, Public Resources Code.

**Amend § 1092.18 Agency and Public Review for the PTHP**

Upon filing a PTHP in accordance with 14 CCR 1092.16 the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to ~~DFG~~ the Department of Fish and Game, ~~to~~ the appropriate California Regional Water Quality Control Board, the Division of

1 Mines and Geology, the Department of Parks and Recreation, the county  
2 planning agency and, if the areas are within their jurisdiction, to the  
3 California Tahoe Regional Planning Agency and the ~~appropriate Regional~~  
4 California Coastal Zone Conservation Commission. The Director shall also  
5 transmit a copy of any specific PTHP to any person who has made a written  
6 request. The Department shall bill such persons for the cost of providing  
7 such copies and such monies shall be paid to the Department.

8 The Director shall invite written comments, and will consider these  
9 comments. All comments should address any areas where there is a question of  
10 consistency with the PTEIR, the Act, the applicable rules of the Board and  
11 any other applicable legal requirements. All comments shall be in writing  
12 and shall be addressed to the Director at the regional office where the PTHP  
13 was filed.

14  
15 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.  
16 Reference: Sections 4582.7 and 4582.75, Public Resources Code.

17 **Amend § 1092.27 Report Minor Deviations**

18 (a) Minor deviations as described in 14 CCR 895.1 shall be submitted in  
19 writing to the Director before undertaking the deviation. Actions described  
20 in 14 CCR 1092.26 which are normally presumed to be substantial deviations  
21 may, in a given instance, be minor deviations. Actions listed as substantial  
22 deviations in 14 CCR 1092.26 or discussed in the PTEIR that are considered to  
23 be minor by the submitter may be undertaken only if requested in writing to  
24 and approved by the Director.

25 (b) The Director shall have five working days to determine if the  
proposed deviation is substantial or minor. Upon the date of receipt, the  
Director shall send copies of the proposed deviation to the Department of  
Fish and Game, the appropriate Regional Water Quality Control Board, the

Division of Mines and Geology, and any County which has special rules adopted  
under Section 4516.5 of the Public Resources Code.

(c) Where the Director fails to act within the five day period or a  
determination is made that the proposed deviation is minor, work may  
commence.

(d) Where the Director determines the proposed deviation is  
substantial, the review process in 14 CCR 1092.18 will be followed.

Note: Authority cited: Section 4591.1, Public Resources Code. Reference:  
Sections 4583.2 and 4591.1, Public Resources Code.

doh: 2/2/2000

File: Proposed Rule Language